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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/520,335	07/21/2005	Anwa Khan	37319	2580
116 7590 04/27/2009 PEARNE & GORDON LLP 1801 EAST 9TH STREET SUITE 1200 CLEVELAND, OH 44114-3108				
EXAMINER				
WENDELL, MARK R				
ART UNIT		PAPER NUMBER		
3635				
MAIL DATE		DELIVERY MODE		
04/27/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/520,335

**Applicant(s)**

KHAN, ANWA

**Examiner**

MARK R. WENDELL

**Art Unit**

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 February 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) \_\_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Objections***

Claim 1 is objected to because of the following informalities: The examiner notes that in the preamble is states "a wall sheeting" and in subsequent limitations within the claim it states multiple sheetings. Also, the word "sheeting" throughout the body of the claim should become "sheetings" as it appears the applicant is trying to claim multiple sheetings. Also, in limitation (v) the word "connecting" should be "connected." Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

Claims 1-3 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The examiner notes that the addition of the word "parallel" is new matter because the limitation is never stated within the specification and the inference of the walls being parallel cannot be discerned from the drawings alone..

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

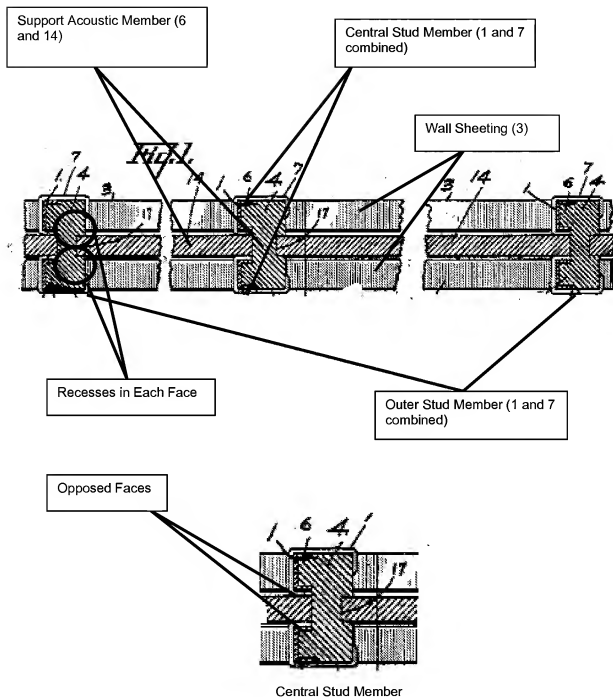
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

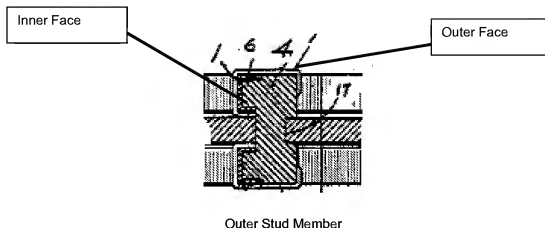
Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Henderson (US 1841810) in view of Scott (US 5022211). Regarding claim 1, Henderson illustrates in Figure 1 and describes within the specification a stud for a wall structure comprising:

- At least one central stud member having opposed faces and a recess in each face (See Figure below);
- A support acoustic member mounted on each opposed face of the central stud member, each acoustic member being seated in and filling the recess formed in the face of the central stud (See Figure below);
- Outer stud members having an inner face and having an opposite outer face mounted on the outer side of each acoustic member and with the inner face being held captive thereby (See Figure below); and
- Wall sheeting connecting the outer faces of adjacent outer stud members (See Figure below).

However, the Henderson reference does not distinctly disclose the stud being composite (although it is made from sound attenuating insulation and metal). Scott discloses throughout the specification a stud member of a roughly similar shape being made of a composite material. It would have been obvious to one having ordinary skill in the art at the time of invention to make the stud of Henderson from a composite material, like that of Henderson, in order to make the stud lighter and cheaper.

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Regarding claim 2, wherein each acoustic support member (6 and 14) has a major portion (6) having an inner face and outwardly extending spaced apart arms which terminate in inwardly directed flanges which define recesses. The examiner notes that the claim does not adequately define what the term "inwardly" means. It is not discernable to what the arms terminate inwardly with respect to. The acoustic member of the central stud has the arms terminating inwardly toward the outer stud members and the acoustic members of the outer stud members terminated inwardly towards the central stud member on one side and another outer stud member in the opposite direction.

Regarding claim 3, Henderson illustrates in Figure 1 the outer stud members having an enlarged head (14) that is located in the recess (of acoustic member 6) and held captive by the flanges (of acoustic member 6).

***Response to Amendment***

The examiner notes that the prior art and previous rejection meets the new limitations of the claims. Regarding claim 1, all of the wall sheeting is parallel to one another as can be seen in the illustrations above. Also, regarding claim 2 the new limitation that the flanges extend toward each other is met by the prior art. The thickness of the flanges inherently gives them the property of extending towards one another.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARK R. WENDELL whose telephone number is (571)270-3245. The examiner can normally be reached on Mon-Fri, 7:30AM-5PM, Alt. Fri off, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Richard E. Chilcot, Jr./  
Supervisory Patent Examiner, Art Unit 3635

/M. R. W./  
Examiner, Art Unit 3635  
April 20, 2009